IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

Mat.Appeal.No. 58 of 2006()

(MOP 169/99 OF SUB COURT, PALAKKAD)

PETITIONER: APPELLANT/PETITIONER:

NITHYANANDAN, S/O. MADHAVAN,
KOLLAMPURATH KALATHIL VEEDU, P.N. CHALLA,
EDUPPUKULAM, ELAPULLY AMSOM,
MENONPARA VIA, PALAKKAD.

BY ADV. SRI.T.C.MOHANDAS

RESPONDENTS:

KAVITHA, D/O. SUNDARAN,
EACHANPURA, MOOCHERI, KUNDALASSERI,
KONGAD, PALAKKAD TALUK.

BY ADV. SRI.JACOB SEBASTIAN

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 27/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

Mat.Appeal No.58 of 2006

Dated 27th September, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment dated 4.1.2006 in O.P.169/99 on the file of the Sub Court, Palakkad. Though the case has a long history, for the purpose of this appeal, it is sufficient to note that M.O.P.169/99 filed by the appellant herein for divorce happened to be dismissed for non-payment of pendente lite maintenance, as per the impugned order.

2. The appellant who is present before the court has expressed his willingness to deposit an amount of Rs.35,000/- within a period of one month from today before the Family Court towards the pendente lite maintenance and it is prayed that there may be a direction to dispose of the original petition most expeditiously. Learned counsel for the appellant submits that the respondent has filed another case, M.O.P.No.929/96 before the Family Court, Palakkad for maintenance. Since the same is not the subject matter of this appeal, we need not refer to the merits of that case. However, we make it clear that any amount paid by the appellant by way of maintenance will be taken note of by the

Family Court while passing orders in M.O.P.929/06. In the above circumstances, this appeal is allowed and the order dated 4.1.2006 in M.O.P.169/99 is set aside. The appellant will deposit an amount of Rs.35,000/- within a period of one month from today before the Family Court, Palakkad towards the pendente lite maintenance. The balance towards the pendente lite maintenance will be deposited within another one month. There will be a direction to the Family Court, Palakkad to dispose of M.O.P.169/99 on the file of the Sub Court, Palakkad which is transferred to the Family Court and renumbered (number not made available), on merits, within three months from the date of production of a copy of the judgment. Needless to say that since the deposit is towards arrears of maintenance, it will be open to the respondent to withdraw the same. In case the deposit as above is not made, this appeal will stand dismissed.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. NO. OF 200

J U D G M E N T

Dated 24th September, 2007.